UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KOLMAR GROUP AG, Plaintiff, - against - GILKES HOLDING GROUP, LTD. a/k/a GILKES HOLDING GROUP, INC. a/k/a GILKES HOLDING and ELCHIN MAMMADOV, Defendants,	:	09 CV 3229 (PKC) ECF CASE

MEMORANDUM OF LAW
IN OPPOSITION TO ORDER TO SHOW CAUSE ISSUED ON OCTOBER 22, 2009

Plaintiff, KOLMAR GROUP AG ("Kolmar"), submits this Memorandum of Law in Opposition to the Order to Show Cause issued on October 20, 2009 ordering Plaintiff to show cause why the writ of maritime attachment issued in this matter should not be vacated in light of the decision issued by the Second Circuit Court of Appeals on Friday, October 16, 2009 entitled *Shipping Corp. of India, Ltd. v. Jaldhi Overseas Pte Ltd.*, 08-3477-cv, 2009 U.S. App. LEXIS 22747 (2d Cir. Oct. 16, 2009)("*Jaldhi*"), funds attached should not be released and why this action should not be dismissed without prejudice.

FACTUAL BACKGROUND / HISTORY

Plaintiff commenced this action on April 3, 2009 by the filing of a Verified Complaint which included a prayer for an Ex Parte Order for Process of Maritime Attachment pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims. ("Supplemental Rule B").

On April 6, 2009 the Court issued an Ex Parte Order of Maritime Attachment and Garnishment pursuant to the Plaintiff's Verified Complaint. The Ex Parte Order authorized the Plaintiff to attach Defendants GILKES HOLDING GROUP, LTD. a/k/a GILKES HOLDING GROUP, INC. a/k/a GILKES HOLDING ("Gilkes") and ELCHIN MAMMADOV ("Mammadov") (collectively "Defendants") property up to the sum of $1,572,059.68, located within this judicial district and belonging to the Defendants.

In response to the Ex Parte Order and Process of Maritime Attachment and Garnishment issued pursuant thereto the following garnishees have advised Plaintiff of the following restraints:

Mammadov	$1,000 on May 1, 2009 at BNP Paribas $880 on June 2, 2009 at Citibank $1,022.16 on April 27, 2009 at Citibank $4,155 on June 2, 2009 at Wachovia $3,601 on August 17, 2009 at Bank of America
Gilkes	$16,500 on April 14, 2009 at Standard Chartered Bank.

Whether other garnishees may have restrained other funds belonging to the Defendants is not known as the garnishees (with the exception of Wachovia) have not filed Answers as required by Supplemental Rule B(3)(a). *See attached hereto as Exhibit A Wachovia's Answer dated June 3, 2009.*

Following restraint of Defendants funds the Plaintiff served Notices of Attachment on Defendants pursuant to Local Admiralty Rule B.2. *See attached hereto as Exhibit B Plaintiff's Notices of Attachment served on Defendants.* To date, neither Defendant has appeared or answered this action notwithstanding the notice which has been provided.

Upon information and belief, the Defendant's funds restrained at the above-referenced garnishees remain under attachment. Further, and upon information and belief, all of the attached funds were being sent by the Defendant to third parties. Plaintiff has served Interrogatories on the garnishees seeking to obtain further details and information regarding the funds that have been restrained but has not yet received responses from any of the garnishees.

On May 27, 2009 Plaintiff commenced English High Court proceedings in London against Defendant Gilkes on its claim. On July 28, 2009 Plaintiff obtained an English High Court judgment against Defendant Gilkes in the sum of $3,885,332.56 14, 2009. *See Judgment / Order attached hereto as Exhibit C.*

DISCUSSION REGARDING JALDHI

In issuing its decision in *Jaldhi* the Second Circuit Court of Appeals reversed its prior decision in *Winter Storm Shipping v. TPI*, 310 F.3d 263 (2d Cir. 2002, and the cases it decided thereafter, which held that EFTs being remitted through intermediary banks located in New York were attachable property within the reach of Supplemental Rule B creditors. The Second Circuit found that New York law, and not federal law should govern the analysis and that such restraints were not permitted under NYUCC 4A-503 and that under New York law neither originators nor beneficiaries have an attachable property interest in such an EFT. However, as set out below, the Second Circuit Court of Appeals incorrectly and incompletely applied New York law and *Jaldhi* does not mandate that the funds restrained in this action be released.

New York law does, in fact, permit creditors to serve upon garnishees process intended to restrain EFTs which may be located at an intermediary bank. This was established by the First Department of New York State Court in *Palestine Monetary Authority v. Strachman*, 873 N.Y.S.2d 281 (1st Dep't Feb 17, 2009) ("PMA"). In PMA the First Department clearly found that intermediary banks involved in the international funds transfer system have discretion to either honor or ignore such process. As a result, such EFTs, where restrained by the garnishee, constitute attachable property where the defendant has a property interest in the EFT. In addition, there the garnishee (in the role of an intermediary bank) honors the process, it does not violate NYUCC 4A-503 and the attachment is in accord with the law of the state of New York. Such a determination was made by the Second Circuit Court of Appeals in *Consub Delaware LLC v. Schahin Engenharia Ltda*, 543 F.3d 104, 111 (2d Cir. 2008). This aspect of the *Consub Delaware* opinion has not been adversely impacted by *Jaldhi* as it does not rely upon the *Winter Storm* opinion.

There is no basis upon review of *Jaldhi* to find that the Second Circuit Court of Appeals was aware of the First Department's *PMA* decision or if any consideration was afforded to the effect already attached EFTs. Thus, this Court should not reply upon *Jaldhi* as support for a finding that EFTs are not attachable property under New York law as *PMA* clearly holds otherwise so long as the defendant has a property interest in he EFT.

Jaldhi provides an incomplete assessment of the salient issue of whether funds, once representing the value of an attached EFT, are then restrained by a garnishee and transferred into a separate location or holding area (which is the practice employed by many if not all of the garnishee banks involved with Rule B cases), no longer constitute an EFT. Rather, such an EFT has been altered into a definable and attachable *res* by their subsequent handling by the garnishee.

As explained below, following initial restraint of the EFTs in question, the Plaintiff re-served the Ex Parte Order and Process and thereby re-attached the funds in question. As a result the Plaintiff has attached the Defendants' interest in the funds being held by the garnishee banks in the separate location or holding area under both New York and maritime law. Plaintiff is entitled to limited discovery from the banks regarding whether the Defendants have an attachable property interest in the funds restrained by the garnishees.

There is no governing provision set forth in the UCC for a situation where an intermediary bank transfers the value of an EFT into a separate location or holding area. Maritime law should therefore be used to assess the analysis and it has long been established under maritime law that debts owed by a bank in which a defendant has an interest are susceptible of being attached by a maritime creditor. *See Kingston Dry Dock Co. v. Lake Champlain Transportation Co.*, 31 F.2d 265, 266-67 (2d Cir. 1929).

POINT I

DEFENDANT'S PROPERTY WAS VALIDLY RE-ATTACHED

Plaintiff respectfully submits that ordering the release of the Defendants' funds at this point in time would work a tremendous injustice to Plaintiff. The funds being restrained at Wachovia, Standard Chartered Bank, Citibank, BNP Paribas and Bank of America are very likely contained within bank accounts maintained by the garnishees and therefore such funds are not within the scope of the *Jaldhi* decision.

Jaldhi announced that beneficiary EFTs are no longer attachable property under Supplemental Rule B. However, the decision left open the question of whether originator electronic funds transfers, which are believed to be involved here, may be attached pursuant to Supplemental Rule B which in any event still applies to any property of a defendant being held in bank accounts. *See e.g., Aurora Maritime Co. v. Abdullah Mohamed Fahem & Co.*, 85 F.3d 44, 46 (2d Cir. 1996)(confirming that there is no question that federal admiralty law regards a defendant's funds held in a bank account as property subject to maritime attachment under Rule B).

Here, after the Defendants' funds were lawfully restrained pursuant to the Ex Parte Order and Process of Maritime Attachment and Garnishment served on the garnishees these funds were placed into either "suspense accounts" or a "holding area" by the garnishee banks. Service of the Ex Parte Order of Attachment was made on those garnishee banks following the initial restraint of the Defendant's funds.

This secondary, or follow up, service re-attached any and all funds those garnishees had in their possession in which the Defendant had a property interest. This includes the wire remittances which Plaintiff reasonably believes were then being held by the garnishee banks in New York in either "suspense accounts" or a "holding area." Even if an attachment of property is found technically invalid or infirm in the first instance, so long as the initial attachment was made in good faith, as is the case here, then a secondary attachment can work to rectify any defect in the initial attachment.

The Second Circuit Court of Appeals in *Reibor Int'l Ltd. v. Cargo Carriers (KACZ-Co.)., Ltd.*, 759 F.2d 262 (2d Cir. 1985) stated that even if the funds need not have been initially restrained by the bank, if they were so restrained then they may be validly reattached thereby resolving any technical invalidity or infirmity in the restraint. Judge Karas confirmed this principal in *Good Challenger Navagante S.A. v. Metalexportimport S.*A., 2006 U.S. Dist. LEXIS 97920 (S.D.N.Y. July 17, 2006)(holding that a second attachment of funds was valid, notwithstanding the invalidity of the first order, since the first attempt was made in good faith).

As set forth above, the Plaintiff has already served Interrogatories on the garnishee banks to confirm where exactly the funds were held following restraint to show that the funds were validly re-attached as explained above. However, regardless of the exact location of the restrained funds in the hands of the garnishee banks, because these funds were stopped in New York at the time of the second, or follow up service, the attachment should be allowed to stand.

Plaintiff's Interrogatories directed to the garnishee banks also seek to determine whether the funds restrained in this matter involved transfers in the hands of an intermediary bank or direct wires where no intermediary banks were involved. If any of the attached funds in this matter did not involve intermediary banks, these funds will fall outside the scope of the *Jaldhi* holding.

An attachment of intangibles should not be defeated by technical niceties. *See Esso Standard (Switzerland) v. The Arosa Sun*, 184 F. Supp. 124 (S.D.N.Y. 1960)(holding "admiralty has not permitted technical niceties to defeat rights of foreign attachment. This is in accord with the well recognized principle pervading admiralty practice generally that equitable principles rather than technical rules and forms should be the paramount consideration and that the objective is to do substantial justice between the parties")(internal citations omitted).

POINT II

JALDHI **SHOULD NOT BE GIVEN RETROACTIVE APPLICATION**

The Second Circuit's decision in *Jaldhi* should not be given retroactive effect because Plaintiff justifiably relied on the fact that it had obtained security in New York and has spent a great deal of time, energy and money in prosecuting its claims against the Defendants in England and New York. *See Chavdar Tzonev Declaration at* ¶¶*4 and 6.* "The inherent power to adapt an admiralty rule to the equities of a particular situation is entrusted to the sound discretion of the district judge sitting as an admiralty judge, and not to the circuit judges sitting in review." *See Greenwich Marine, Inc. v. S.S. Alexandra*, 339 F.2d 901 (2d Cir. N.Y. 1965). Here, the Court should employ its equitable discretion and allow the attachment to stand to avoid a grave injustice to the Plaintiff.

The Plaintiff filed this action earlier this year and following the Second Circuit Court of Appeals decision on September 23, 2008 in *Consub Del. LLC v. Schahin Engenharia Limitada*, 543 F.3d 104, 109 (2d Cir. N.Y. 2008), which held that an electronic funds transfer in the hands of an intermediary bank was attachable pursuant to Supplemental Rule B. The Second Circuit unequivocally stood behind the validity of maritime attachments of electronic funds transfers stating that "... our holding today ought to **jettison** any speculation that this note in Aqua Stoli foretold the demise of Winter Storm." *Id. (emphasis added)*

With knowledge of the pronouncements concerning the validity of such maritime attachments the Plaintiff undoubtedly has justifiably relied on the Second Circuit's holdings in *Winter Storm Shipping, Ltd. v. TPI*, 310 F.3d 263, 268 (2d Cir. 2002), *Aqua Stoli Shipping Ltd. v. Gardner Smith Pty Ltd.*, 460 F.3d 443 (2d Cir. 2006)*; and Consub Del. LLC v. Schahin Engenharia Limitada*, 543 F.3d 104, 109 (2d Cir. N.Y. 2008), which all held that electronic funds transfers to or from a party are attachable under Supplemental Admiralty Rule B, when making choices regarding obtaining security in this case. *See Declaration of Chavdar Tzonev* ¶¶ 4, 7 - 8.

The Second Circuit's decision need not be given retroactive effect. As the Second Circuit itself has recognized, in some exceptional cases, as Kolmar submits is the case here, courts are permitted to shape relief in light of the disruption of important reliance interest or the unfairness caused by unexpected judicial decisions. *See Margo v. Weiss*, 213 F.3d 55, n2 (2d Cir. 2000) citing *Harper v. Virginia Dep't of Taxation*, 509 U.S. 86, 97, 125 L.Ed. 2d 74, 113 S. Ct. 2510 (1993). Plaintiff validly obtained security pursuant to Supplemental Admiralty Rule B in the good faith belief that the Second Circuit Court of Appeals had laid to rest any questions concerning the propriety of restraining electronic funds transfers and thus it could obtain, and preserve, such security for its claims in New York.

The Second Circuit's decision in *Jaldhi*, which was described as a "mini-*en banc* review" was entirely unexpected, as three prior Second Circuit cases held that electronic funds transfers in the hands of an intermediary banks were subject to attachment under Supplemental Rule B. As stated above, the Second Circuit expressly and emphatically upheld *Winter Storm* just last year. *See Consub Del. LLC v. Schahin Engenharia Limitada*, 543 F.3d 104, 109 (2d Cir. N.Y. 2008). This wholesale change in direction was never contemplated. Further, *Jaldhi* was not the subject of any disclosed *en banc* review when the decision was issued.

If Plaintiff had known, or reasonably suspected, that *Winter Storm* would be overruled, it would have re-considered its litigation strategy and also possibly sought other avenues to obtain security from Defendant or to agree with Defendant for substitute security to be put into place. However, any such opportunity is now foreclosed. Plaintiff rightfully believed it had obtained valid security in New York.

If the attached funds are now released, Plaintiff will be left entirely unsecured for its claim. *See Tzonev Decl.* ¶4. Relying on the fact that security had been obtained in New York (and that Kolmar would therefore not be pursuing an empty judgment), Kolmar has undertaken a costly and timely prosecution of its claims in the English High Court and in New York[1]. Kolmar has paid to date approximately $103,000 in prosecuting its claims and obtaining security. *See Tzonev Decl.* ¶ 6.

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[1] Plaintiff's claims against Defendant Mammadov would be resolved in New York. Plaintiff has already obtained a Certificate of Default against each Defendant.

Further, funds should not be ordered released in this case because the lower district court in *Jaldhi* has not decided, as it was directed to do by the Second Circuit, whether other grounds may exist to warrant keeping the attachment in place (such as where the defendant is the originator of the electronic funds transfer in a "failed transfer" situation). In the absence of a finding by the district court on this issue there is only dictum within the *Jaldhi* decision to determine that originator remittances also have no basis to be attached.

Here, the attached funds originated from the Defendants. As such, we are arguably dealing with "failed transfers" in this case, the Uniform Commercial Code (which is now arguably applicable to the involved electronic funds transfers as per the *Jaldhi* decision) might well afford originating parties with attachable property interests over the funds. That distinction may impact the *Jaldhi* court's analysis of the extent of the Defendant's' property interests in the original electronic funds transfers.

Moreover, even if it is assumed that *Jaldhi* may eventually be read or determined to apply equally to transfers from and to a defendant in the hands of an intermediary bank, the decision would apply only to funds transfers in that configuration, but certainly not to a direct wire remittance where an intermediary bank was not involved. Garnishee banks, including those involved in this action, generally provide only limited information to counsel when they confirm funds have been restrained, and it is often the case that counsel is only informed of a restraint but no specifics are provided. As such, we are unable at this time (particularly in the absence of discovery and/or responses to the interrogatories from the garnishee banks), to inform this Court whether the EFTs in this case do not involve an intermediary and thus may well fall entirely outside the scope of *Jaldhi.*

In any case, because Plaintiff has spent a vast amount of money, time and energy in prosecuting its claims both in London and New York, and it had the reasonable expectation that the funds attached in this matter would serve as good security (and it relied on the security in New York in not seeking to utilize other means of obtaining security which are now foreclosed), the *Jaldhi* decision should not be applied retroactively.

Also, as set forth in the supporting Declaration of Chavdar Tzonev, the Director of Operations for Kolmar, there will be detriment to Plaintiff if this attachment is vacated because it has no other viable means to secure itself and will be left entirely unsecured on its claims (¶4) and consideration of future enforcement in the British Virgin Islands and/or Azerbaijan, where Defendants are domiciled and/or located, would be unsuccessful. (¶4)

CONCLUSION

WHEREFORE, for all of the foregoing reasons, the Plaintiff respectfully requests that the Court not vacate or otherwise modify the writ of attachment, preserve under attachment in New York all of the Defendants' funds that have been restrained thus far, and permit the Plaintiff to proceed with an application for recognition and enforcement of its English High Court judgment against Defendant Gilkes and motion for default judgment against Defendant Mammadov, along and together with any further relief that the Court may deem is necessary and appropriate in the circumstances.

Dated: November 10, 2009
New York, NY

Respectfully submitted,
The Plaintiff
KOLMAR GROUP AG

By: ______________________
Kevin J. Lennon

LENNON, MURPHY & LENNON, LLC
The GrayBar Building
420 Lexington Ave., Suite 300
New York, NY 10170
(212) 490-6050 – phone
(212) 490-6070 – fax
kjl@lenmur.com

AFFIRMATION OF SERVICE

I hereby certify that on November 10, 2009, a copy of the foregoing Memorandum of Law was filed electronically and served by mail on anyone unable to accept electronic filing.

Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing. Parties may access this filing through the Court's CM/ECF system.

By: ______________________
Kevin J. Lennon

EXHIBIT A

ROSNER NOCERA & RAGONE, LLP
110 Wall Street - 23rd Floor
New York, New York 10005
(212) 635-2244
Attorneys for Wachovia Bank, N.A.

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KOLMAR GROUP AG, Plaintiff, -against- GILKES HOLDING GROUP, LTD., a/k/a GILKES HOLDING GROUP, INC., a/k/a GILKES HOLDING and ELCHIN MAMMADOV, Defendants.	UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK Civil Case No. 09-cv-3229 (PKC)

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ANSWER TO PROCESS OF MARITIME ATTACHMENT
BY WACHOVIA BANK NATIONAL ASSOCIATION

Wachovia Bank, National Association ("Wachovia"), as garnishee under a Process of Maritime Attachment dated April 6, 2009, as and for its Answer under FRCP Suppl. Admiralty and Maritime Claims Rule B, sets forth as follows:

In response to the above referenced Order of Attachment, Wachovia has restrained and is holding the sum of $4,155.00 out of an Electronic Funds Transfer in progress in the total amount of $4,155.00. The details of such transaction are as follows:

$4,155.00

Date – 6/2/2009

Originator – ACEEC MMC' TAXID 1301650611 U.AKBAROV STR.29B BAKU, AZERBAIJAN

Originating Bank – CAPITAL BRANCH OF TECHNIKABANK OSC BAKU, AZERBAIJAN

Beneficiary Bank – WELLS FARGO BANK, NA X SAN FRANCISCO CA

Beneficiary – INTRAX INTERNATIONAL INSTITUTE 600 CALIFORNIA STR,10TH FLOOR SAN FRANCISCO,CA 94108 U.S.A.

OBI – PREPAYMENT TO THE CONTRACT TO DD 22.08.08,INV NO.16745A DD 29.05.09,FOR ENGLISH COURSES FOR 8 WEEKS FOR 1 STUD.ELCHIN MAMMADOV

Dated: New York, New York
June 3, 2009

Yours, etc.,

ROSNER NOCERA & RAGONE, LLP

By: \S\John P. Foudy
Peter A. Ragone (PR - 6714)
John P. Foudy (JF-7322)
Y. Elaine Lau (YL-6028)
Attorneys for Wachovia Bank, National Association
110 Wall Street, 23rd Floor
New York, New York 10005
(212) 635-2244

To: Lennon, Murphy & Lennon, LLC
The GrayBar Building
420 Lexington Avenue
Suite 300
New York , NY 10170
(212) 490-6050
Fax: (212) 490-6070

EXHIBIT B

Lennon,
Murphy &
Lennon, LLC
ATTORNEYS AT LAW

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420 Lexington Ave., Suite 300
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Tide Mill Landing
2425 Post Rd., Suite 302
Southport, CT 06890
phone (203) 256-8600
fax (203) 256-8615
mail@lenmur.com

April 21, 2009

Via Registered Mail, return receipt requested
Gilkes Holding Group, Ltd.
P.O. Box 3312
Drake Chambers
Tortola
British Virgin Islands

Re: **Kolmar Group AG. v. Gilkes Holding Group, Ltd. a/k/a Gilkes Holding Group, Inc. a/k/a Gilkes Holding and Elchin Mammadov**
Docket Number: 09 Civ. 3229
Our File Number: 1861-09

Dear Sir or Madam:

We represent the Plaintiff Kolmar Group AG., in the above referenced lawsuit. We write to advise you that pursuant to an Ex Parte Order of Maritime Attachment and Garnishment issued in the above referenced lawsuit, your property was attached at Standard Chartered Bank, in New York in the approximate amount of $16,500.

Please find enclosed with this letter the following pleadings/documents: Summons, Complaint, Affidavit in Support, 7.1 Disclosure Statement, Order for Process of Maritime Attachment and Garnishment; Process of Maritime Attachment and Garnishment and also the Individual Rules for Honorable Kevin P. Castel.

Please also find enclosed anOrder Scheduling Initial Pretrial Conference on June 24, 2009 at 10:45 a.m. in Courtroom 12C at the United States Courthouse, 500 Pearl Street, New York, New York.

Should you have any questions or concerns, please contact us at your convenience.

This letter is sent pursuant to Local Rule B.2 of the Local Rules for the United States District Court for the Southern District of New York.

Very truly yours,

Mary Fedorchak

mef/bhs
Encl.

Lennon,
Murphy &
Lennon, LLC
ATTORNEYS AT LAW

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phone (203) 256-8600
fax (203) 256-8615
mail@lenmur.com

June 17, 2009

Via Facsimile: 011 991 412 461 2464
Via E-mail: emammadov@gilkesholding.com

Via Express Courier	***Via Registered Mail, return receipt requested***
Mr. Elchin Mammadov	Mr. Elchin Mammadov
Bagdat Caddesi Cam	c/o Gilkes Holding Group Ltd.
Apt. No 285, Saire 6	P.O. Box 3312
Caddebostaul Kadikoy	Drake Chambers
Istambul	Tortola
Turkey	British Virgin Islands

Re: **Kolmar Group AG. v. Gilkes Holding Group, Ltd. a/k/a Gilkes Holding Group, Inc. a/k/a Gilkes Holding and Elchin Mammadov**
Docket Number: 09 Civ. 3229
Our File Number: 1861-09

Dear Sir or Madam:

We represent the Plaintiff Kolmar Group AG., in the above referenced lawsuit. We write to advise you that pursuant to an Ex Parte Order of Maritime Attachment and Garnishment issued in the above referenced lawsuit, your property was attached at the following banks in New York.

Wachovia, in the amount of $4,155 on or about June 2, 2009
Citibank, in the amount of $880 on or about June 2, 2009
Citibank, in the amount of $1022.16 on or about April 27, 2009
BNP Paribas, in the amount of $1000 on or about June 1, 2009

Please find enclosed with this letter the following pleadings/documents: Summons, Complaint, Affidavit in Support, 7.1 Disclosure Statement, Order for Process of Maritime Attachment and Garnishment; Process of Maritime Attachment and Garnishment and also the Individual Rules for Honorable Kevin P. Castel.

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Should you have any questions or concerns, please contact us at your convenience.

This letter is sent pursuant to Local Rule B.2 of the Local Rules for the United States District Court for the Southern District of New York.

Very truly yours,
Mary Fedorchak

mef/bhs
Encl.

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Murphy &
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phone (203) 256-8600
fax (203) 256-8615
mail@lenmur.com

September 4, 2009

Via Facsimile: 011 991 412 461 2464

Via E-mail: emammadov@gilkesholding.com

Via Registered Mail, return receipt requested

Mr. Elchin Mammadov
Bagdat Caddesi Cam
Apt. No 285, Saire 6
Caddebostaul Kadikoy
Istanbul
Turkey

Mr. Elchin Mammadov
c/o Gilkes Holding Group Ltd.
P.O. Box 3312
Drake Chambers
Tortola
British Virgin Islands

Re: **Kolmar Group AG. v. Gilkes Holding Group, Ltd. a/k/a Gilkes Holding Group, Inc. a/k/a Gilkes Holding and Elchin Mammadov**
Docket Number: 09 Civ. 3229
Our File Number: 1861-09

Dear Sir or Madam:

We represent the Plaintiff Kolmar Group AG., in the above referenced lawsuit. We write to advise you that pursuant to an Ex Parte Order of Maritime Attachment and Garnishment issued in the above referenced lawsuit, your property was attached at Bank of America, in New York in the approximate amount of $3,601.

Should you have any questions or concerns, please contact us at your convenience.

This letter is sent pursuant to Local Rule B.2 of the Local Rules for the United States District Court for the Southern District of New York.

Very truly yours,

Mary Fedorchak

Mary Fedorchak

mef/bhs

EXHIBIT C

IN THE HIGH COURT OF JUSTICE | Claim No. 2009 Folio 696

QUEEN'S BENCH DIVISION

COMMERCIAL COURT

MR JUSTICE PETER GROSS

BETWEEN:

KOLMAR GROUP AG

Claimant

-and-

GILKES HOLDING GROUP LIMITED

Defendants

SUPREME COURT OF JUDICATURE
28 JUL 2009
ADMIRALTY & COMMERCIAL REGISTRY

JUDGMENT / ORDER

UPON an application made by the Claimant pursuant to an application notice issued on 21st July 2009. **AND UPON** reading the witness statement of Martin John Wisdom dated 21st July 2009

IT IS ORDERED THAT the Defendant Gilkes Holding Group Limited do pay the Claimant the principal sum of USD3,885,332.56 (three million, eight hundred and eighty five thousand, three hundred and thirty two United States Dollars and fifty six cents).

IT IS ORDERED THAT the Defendant do pay to the Claimant its paid Court fees in the sum of GB£1,530 and the Claimant's costs to be assessed.

Dated the 28th day of July 2009

EXHIBIT D